

1 STATE BAR OF CALIFORNIA
2 OFFICE OF CHIEF TRIAL COUNSEL
3 MELANIE J. LAWRENCE, No. 230102
4 INTERIM CHIEF TRIAL COUNSEL
5 JOHN T. KELLEY, No. 193646
6 ASSISTANT CHIEF TRIAL COUNSEL
7 R. KEVIN BUCHER, No. 132003
8 SUPERVISING ATTORNEY
9 STACIA L. JOHNS, No. 292446
10 DEPUTY TRIAL COUNSEL
11 845 South Figueroa Street
12 Los Angeles, California 90017-2515
13 Telephone: (213) 765-1004

PUBLIC MATTER

FILED

DEC 19 2018

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

In the Matter of:

IVAN BARRY SCHWARTZ,
No. 153264,

A Member of the State Bar.

) Case No. 18-O-12311

) NOTICE OF DISCIPLINARY CHARGES

NOTICE - FAILURE TO RESPOND!

IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE
WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT
THE STATE BAR COURT TRIAL:

- (1) YOUR DEFAULT WILL BE ENTERED;
- (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU
WILL NOT BE PERMITTED TO PRACTICE LAW;
- (3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN
THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION
AND THE DEFAULT IS SET ASIDE, AND;
- (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.
SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE
OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN
ORDER RECOMMENDING YOUR DISBARMENT WITHOUT
FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,
RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.

///

///

kwiktag®

241 070 872



1 The State Bar of California alleges:

2 JURISDICTION

3 1. Ivan Barry Schwartz ("respondent") was admitted to the practice of law in the State of
4 California on June 5, 1991, was a member at all times pertinent to these charges, and is currently
5 a member of the State Bar of California.

6
7 COUNT ONE

8 Case No. 18-O-12311
9 Business and Professions Code, section 6106
[Moral Turpitude - Misrepresentation]

10 2. On or about March 14, 2016, respondent, through Colorado attorney George Buck,
11 filed an Out of State Counsel's Verified Motion Requesting *Pro Hac Vice* Admission ("Motion
12 for *Pro Hac Vice* Admission") with the Montezuma County District Court in Colorado, case no.
13 2015PR30084. Respondent attached an affidavit to his Motion for *Pro Hac Vice* Admission
14 disclosing his prior discipline in California, which he characterized as, "1998 failure to maintain
15 funds in trust and timely pay, 60-day suspension; 2012, failure to timely pay health care
16 provider, communicate with client, undertook representation without disclosing prior
17 representation, 6 months suspension and completion of Lawyer Assistance Program," when
18 respondent knew that such disclosure contained material omissions and was therefore false and
19 misleading. Respondent thereby committed an act involving moral turpitude, dishonesty or
20 corruption in willful violation of Business and Professions Code, section 6106.

21 3. A violation of section 6106 may result from intentional conduct or grossly negligent
22 conduct. Respondent is charged with committing intentional misrepresentation. However,
23 should the evidence at trial demonstrate that respondent committed misrepresentation as a result
24 of gross negligence, respondent must still be found culpable of violating section 6106 because
25 misrepresentation through gross negligence is a lesser included offense of intentional
26 misrepresentation.

27 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNT TWO

Case No. 18-O-12311
Business and Professions Code, section 6103
[Failure to Obey a Court Order]

4. Respondent disobeyed or violated an order of the court requiring respondent to do or forbear an act connected with or in the course of respondent's profession which respondent ought in good faith to do or forbear by failing to comply with the Montezuma County District Court's April 8, 2016 order denying respondent's request for *pro hac vice* admission in case no. 2015PR30084, by subsequently drafting pleadings, attempting to file a pleading, communicating with opposing counsel regarding substantive legal matters, and making a telephonic appearance on July 7, 2016, in willful violation of Business and Professions Code, section 6103.

COUNT THREE

Case No. 18-O-12311
Rules of Professional Conduct, Rule 1-300(B)
[Unauthorized Practice of Law in Other Jurisdiction]

5. From on or about June 22, 2016 through on or about July 7, 2016, respondent practiced law in Colorado by drafting and attempting to file a pleading with the court, and by calling in and appearing telephonically on behalf of the Trustee of the Trust in Montezuma County District Court, case no. 2015PR30084, when to do so was in violation of the regulations of the profession in Colorado, namely Colorado Rules of Professional Conduct, rule 5.5(a)(1), in willful violation of Rules of Professional Conduct, rule 1-300(B).

NOTICE - INACTIVE ENROLLMENT!

YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE RECOMMENDED BY THE COURT.

///
-3-

NOTICE - COST ASSESSMENT!

IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6086.10.

Respectfully submitted,

THE STATE BAR OF CALIFORNIA
OFFICE OF CHIEF TRIAL COUNSEL

DATED: December 19, 2018

By: Stacia L. Johns

Stacia L. Johns
Deputy Trial Counsel

DECLARATION OF SERVICE

by

U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): **18-O-12311**

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 845 South Figueroa Street, Los Angeles, California 90017-2515, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

NOTICE OF DISCIPLINARY CHARGES

☐

By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))

- in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles.

☒

By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))

☐

By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))

- I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service ("UPS").

☐

By Fax Transmission: (CCP §§ 1013(e) and 1013(f))

Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.

☐

By Electronic Service: (CCP § 1010.6)

Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the electronic addresses listed herein below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☐

(for U.S. First-Class Mail) in a sealed envelope placed for collection and mailing at Los Angeles, addressed to: *(see below)*

☒

(for Certified Mail) in a sealed envelope placed for collection and mailing as certified mail, return receipt requested,
Article No.: 9414 7266 9904 2111 0156 02 at Los Angeles, addressed to: *(see below)*

☐

(for Overnight Delivery) together with a copy of this declaration, in an envelope, or package designated by UPS,
Tracking No.: addressed to: *(see below)*

Person Served	Business-Residential Address	Fax Number	COURTESY COPY VIA REGULAR 1 ST CLASS MAIL
Ivan B. Schwartz	Law Office of Ivan Schwartz 501 W Broadway Ste 1780 San Diego, CA 92101-8567		Electronic Address

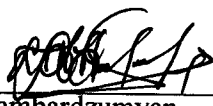
I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service ("UPS"). In the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed at Los Angeles, California, on the date shown below.

DATED: December 19, 2018

SIGNED:


Lusine Hambardzumyan
Declarant